

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Laura Bernstein, individually and
On behalf of All Others Similarly Situated,

Civil Action No.: 08-CV-05874 DWF/JSM

vs.


AFFIDAVIT OF KENNETH LABORE
IN OPPOSITION TO DEFENDANTS'
MOTION TO DISMISS

Extendicare Health Services, Inc.; and
Extendicare Homes, Inc.

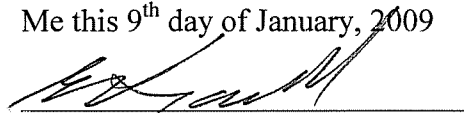
I, Kenneth L. LaBore, swear and allege as follows:

- 1) I am one of the attorneys representing the Plaintiff in this matter.
- 2) Attached hereto as Exhibit 1 is a true and correct copy of the complete Admissions Agreement pertaining to Defendants' facilities.
- 3) Attached hereto as Exhibit 2 are true and correct copies of Online Survey Certification and Reporting Record (OSCAR) reports 3 and 4 obtained by our office from the Minnesota Department of Health pursuant a request by our office on/or about November 11, 2008. These OSCAR reports detail various regulatory violations by Extendicare facilities at issue in this lawsuit and identified in Plaintiff's Complaint. The reports pertain to the following Extendicare facilities: 1) Park Health and Rehabilitation Center; 2) Richfield Health Center; 3) Health and Rehabilitation of New Brighton; 4) Texas Terrace Care Center; 5) Rose of Sharon Manor; 6) Galtier Health Center; 7) Golden Valley Rehabilitation and Care; 8) Robbinsdale Rehab & Care Center.
- 4) Attached hereto as Exhibit 3 are true and correct copies of items downloaded by me from Defendants' website on January 9, 2009. The items include the following web pages: 1) *Why Choose Extendicare?*; 2) *Search for Facilities*; 3) *Making our Patients and*

- Residents Matter*; 4) *Testimonials*; 5) *Selecting A Facility*; 6) *Choosing A Home That is Right For You*; 7) *Excerpts from Extendicare 2007 Annual Report*, pages 1-5.
- 5) Attached as Exhibit 4 is a true and accurate copy of the Decision and Order granting Class Certification in the matter of *Bates, et al. v. Skilled Healthcare Group, Inc., et al.* from the Superior Court of California, County of Humboldt, Case No.: DR060264.
- 6) Attached hereto as Exhibit 5 are true and correct copies of *Carlson, et al. v. A.L.S. Enterprises, Inc., et al.*, 2008 WL 185710 (D.Minn).
- 7) Attached hereto as Exhibit 6 are true and correct copies of *Axcan Scandipharm, Inc. v. Ethex Corporation, et al.*, 2007 WL 3095367 (D.Minn.).
- 8) Attached hereto as Exhibit 7 are true and correct copies of *Evangelical Lutheran Church in America Board of Pensions v. Spherion Pacific Workforce, LLC.*, 2005 WL 1041487 (D.Minn.).
- 9) Attached hereto as Exhibit 8 are true and correct copies of *Yarrington v. Solvay Pharmaceuticals, Inc., et al.*, 2006 WL 2729463 (Minn.App.).
- 10) Attached hereto as Exhibit 9 are true and correct copies of *ADT Security Services, Inc. v. Swenson, et al.*, 2008 WL 2828867 (D.Minn.).
- 11) Attached hereto as Exhibit 10 are true and correct copies of *Axis Minnesota Inc., v. Commissioner of Human Services*, 2001 WL 1645712 (Minn.App.).
- 12) Attached hereto as Exhibit 11 are true and correct copies of *Graham, et al. v. Knutson Mortgage Corporation*, 1996 WL 407491 (Minn.Dist.Ct.).
- 13) Attached hereto as Exhibit 12 are true and correct copies of *Hawkins et al. v. Thorp Loan and Thrift Company, et al.*, 1992 WL 589727 (Minn.Dist.Ct.).


Kenneth L. LaBore

Subscribed and sworn to before
Me this 9th day of January, 2009


Notary Public

